



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

MIKE ZIMMER  
DIRECTOR

[REDACTED]

Date Mailed: April 5, 2016  
MAHS Docket No.: 16-002755  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Kevin Scully**

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on March 30, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included her husband [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

**ISSUE**

Did the Department of Health and Human Services (Department) properly determined the Petitioner's eligibility for Medical Assistance (MA)?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On February 1, 2016, the Department combined the Medical Assistance (MA) benefits of the Petitioner and her husband.
2. The Petitioner's husband receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]
3. The Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]
4. The Petitioner's husband receives annual veteran's benefits in the gross annual amount of \$ [REDACTED]

5. On February 9, 2016, the Department notified the Petitioner that she was approved for Medical Assistance (MA) with a \$ [REDACTED] monthly deductible effective February 1, 2016.
6. On February 22, 2016, the Department received the Petitioner's request for a hearing protesting the level of their Medical Assistance (MA) benefits.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016).

The Petitioner was an ongoing MA recipient when the Department combined her case with her husband's case. The Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) benefits in the gross monthly amount of \$ [REDACTED]. The Petitioner's husband receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] and veterans benefits in the gross annual amount of \$ [REDACTED]. The Petitioner has a child, whose income was not applied towards the Petitioner's eligibility for benefits.

The income limit for a married couple to receive "full" Medicaid without a monthly deductible is \$ [REDACTED]. Department of Health and Human Services Reference Table Manual (RFT) 242 (May 1, 2015), p 1.

A review of Petitioner's case reveals that the Department budgeted correct amount of income received by the Petitioner. Petitioner's "protected income level" is \$ [REDACTED] and this amount cannot be changed either by the Department or by this Administrative Law Judge. Department of Human Services Reference Table Manual (RFT) 240 (December 1, 2013), p 1. Department's determination that the Petitioner has a \$ [REDACTED] deductible per month she must meet in order to qualify for MA for any medical expenses above is therefore correct.

Petitioner argued that his veterans' benefits should be excluded from consideration of MA eligibility.

The Petitioner would not qualify for "full" Medicaid even if the veteran benefits were excluded. The income the Petitioner's husband receives from the Veteran's Administration is not excluded by policy and is considered countable unearned income.

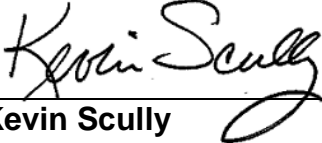
The Petitioner's request to exclude countable income is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. Michigan Mutual Liability Co. v Baker, 295 Mich 237; 294 NW 168 (1940).

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined the level of Medical Assistance (MA) the Petitioner and her husband are eligible to receive.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

KS/las

  
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**Kevin Scully**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

[REDACTED]

[REDACTED]

**Petitioner**

[REDACTED]